

PETER C. HARVEY  
ATTORNEY GENERAL OF NEW JERSEY  
Division of Law  
Richard J. Hughes Justice Complex  
25 Market Street  
P.O. Box 093  
Trenton, New Jersey 08625-0093

**FILED**

NOVEMBER 16, 2004

**NEW JERSEY STATE BOARD  
OF MEDICAL EXAMINERS**

By: Kay R. Ehrenkrantz  
Deputy Attorney General  
Telephone: (609) 984-4654

STATE OF NEW JERSEY  
DEPARTMENT OF LAW & PUBLIC SAFETY  
DIVISION OF CONSUMER AFFAIRS  
**BOARD OF MEDICAL EXAMINERS**

----- X

IN THE MATTER OF THE SUSPENSION OR :  
REVOCATION OF THE LICENSE OF

Administrative **Action**

ALEJANDRO PRESILLA, M.D.  
LICENSE NO. MA 35461

CONSENT ORDER

TO PRACTICE MEDICINE AND SURGERY IN :  
THE STATE OF NEW JERSEY

----- X

This matter **was** opened to the New Jersey State Board of Medical Examiners ("Board") on the receipt of information in April 2003 from the Department of Health and Senior Services pertaining to the closure of Respondent Alejandro Presilla's ("Respondent") federally-certified laboratory due to deficiencies that potentially posed a threat to the public health. Specifically, the Clinical Laboratory Improvement Act ("CLIA") authorities alleged that Respondent: (1) **failed** to enroll and **participate** in proficiency testing programs for coagulation testing and failed to **adequately** document proper handling, preparation and examination of all proficiency test samples, and failed to maintain instrument printouts substantiating reported proficiency results; (2) altered patient test data, **altered** test results, and reported unsubstantiated results; (3) **failed** to

**CERTIFIED TRUE COPY**

**assure** tests included additional information **necessary to properly** perform tests; and **(4)** failed to maintain proper test records.

Respondent Presilla appeared before a Preliminary Evaluation Committee of the Board in October 2003, and testified about his medical **care of a number of patients** at his practice and his basic medical knowledge. Counsel Jeffrey Brown, **Esq.** and Lourdes Martinez, Esq. represented Respondent in all matters pertaining **to** the Board's investigation. Prior to his appearance, Respondent voluntarily relinquished privileges **at** four hospitals. Subsequently, Respondent **agreed** to the monitoring of **his cardiac patients** with coagulation issues by another cardiologist. He submitted to a focused evaluation by the Colorado **Personalized** Education Program ("CPEP") in December 2003, and areas requiring remediation were identified.

In January 2004, Dr. **Presilla withdrew** his **appeal** of the closure of his laboratory by the **Federal** clinical laboratory authorities **and permanently** closed his laboratory. Reports demonstrating proper cardiac care were made to Board Medical Director Gluck by the Board-**approved** cardiac monitor from early January 2004 until the present time.

In lieu of the initiation of a contested matter, both parties, desiring to resolve the present matter, hereby agree to the following:

Having reviewed the entire record, including Respondent's testimony **at** the investigative **inquiry, it appears to** the Board that:

1. Respondent failed as the lab **director** and owner to **adequately** supervise his laboratory procedures and results, thereby violating N.J.A.C.13:35-16(i) and thus constituting a violation of N.J.S.A.45:1-21(h);
2. Respondent failed to maintain properly documented medical records, in violation of N.J.A.C.13:35-6.5, thereby violating N. J. S.A. 45:1-21(h.);

3. Respondent's medical and cardiac care failed to conform to the standard of care, thereby constituting a violation of N.J.S.A. 45:1-21(c) and (d); and

4. Respondent's laboratory failed to comply with Federal standards ensuring competent lab reports, thereby potentially endangering the public health, and such behavior constitutes professional misconduct, a violation of N.J.S.A. 45:1-21(e).

These facts establish a basis for disciplinary action pursuant to N.J.S.A. 45:1-21(c), (d), (e) and (h).

The Board finding the within disposition adequately protective of the public health, safety, and welfare and other good cause having been shown,

IT IS, therefore, on this 10<sup>th</sup> day of November, 2004,

**ORDERED AND AGREED THAT:**

1. Respondent, Alejandro Presilla, M.D.'s, license to practice medicine is hereby suspended effective November 26, 2004, for a period of four (4) years, the first year shall be served as a period of active suspension, the remainder of which shall be stayed and served as a period of probation.

2. Dr. Presilla shall successfully complete a Board-approved ethics course and an approved billing and documentation course before his active suspension terminates.

3. Dr. Presilla agrees never to own or operate a clinical laboratory.

4. The Board, through its Medical Director or Director of Education, shall have input into the development of the educational remediation program that Respondent will complete before beginning his probationary period of practice.

5. Respondent shall be permitted to seek reinstatement of an unrestricted license to practice medicine and surgery in the State of New Jersey only after demonstrating satisfaction of

all of the following conditions:

a. One year has passed from entry of the within Order;

b. *Any* **and** all deficiencies identified in the CPEP evaluation performed prior to this Order have been satisfactorily remediated. **Any** **prior** deficiencies identified by CPEP shall serve as **a** guide to the areas of remediation which Dr. Presilla must **address** and rectify.

c. Dr. Presilla shall participate in a Board-approved focused education program, such as, but not limited to, the CPEP program, and successfully complete any and **all** supplemental follow-up **and** remediation required **by** such evaluation **program**, subject to further review of such assessment **and/or** remediation by the Board. After eight (8) months of **active** suspension, as **part** of Respondent's remediation, he may be issued a limited license for the sole purpose of participating in a preceptorship. The specifics of the extent of his license privileges will be determined in a step-wise manner by the Board, **after** consultation with the Attorney General, CPEP **and** Respondent's attorney, and depending **on** his compliance with the Order;

d. Dr. Presilla shall also demonstrate **complete** compliance **with** this Order **at** the time of his appearance;

e. Once those conditions **have** been **satisfied**, Dr. Presilla shall have **an** appearance before **a** Committee of the Board for the purpose of demonstrating competence and fitness to practice medicine.

6. Dr. Presilla is hereby assessed:

a. Civil penalties, pursuant to N.J.S.A. 45:1-22, and cost of investigation (including expert fees) for a total of Forty **Thousand** Dollars (\$40,000.00);

b. A Certificate of Debt will be filed for (a)-(b). Payment of **all** monies owed, pursuant to (a)-(b), shall **be** submitted in monthly payments of One Thousand **Seven** Hundred One Dollars and sixty-one Cents (\$1,701.61) and paid in full within twenty-four (24)

months of the reinstatement of Respondent's active license, with interest accruing from the date the Consent Order is filed at the post-judgment interest rate as established by New Jersey Court Rule 4:42-11 (a)(ii), which is 2% for the year 2004 . Payment

shall be submitted by certified **check or** money order payable to the State of New Jersey. Payment shall be sent **via** regular mail to William Roeder, Executive Director, Board of Medical Examiners, P.O. Box 183, Trenton, NJ 08625-0183. The first payment shall be due within thirty (30) days of the filing of the reinstatement ~~of~~ Respondent's active license. Thereafter, payment shall be received in the Board office **by** the **fifteenth** (15th) of each month.

7. Dr. Presilla shall return his **original** CDS registration to the **New Jersey** State Board of Medical Examiners, **Post Office Box** 183, Trenton, **New Jersey** 08625-0183, within ten (10) days of **his** receipt of **a filed** copy of this Order and shall not seek another CDS registration unless and until he is licensed by the Board.

8. Dr. Presilla shall **immediately** advise the **DEA** of this Order.

9. Dr. Presilla shall **comply** with the "Directives **Applicable To Any Medical Board** Licensee Who ~~Is~~ Disciplined Or Whose Surrender Of Licensure **Has Been Accepted**" which is attached hereto and **made a** part hereof. Nevertheless, Dr. Presilla is not required **to** divest himself of his medical practice. However, he may not derive income from the practice of medicine during ~~the~~ period of active suspension.

10. If **asked** whether Respondent is a licensed doctor, he shall state he is not until he receives a license from the Board. If he violates **this** provision, he shall be subject to criminal prosecution for the unlicensed practice of medicine and such conduct will be considered **a** violation of this **Order**.

11. **A Board-approved** practice monitor shall be a requirement of Respondent's resumption of active medical practice and shall remain in place at, any medical setting in which

Dr. Presilla is employed, until **the** period of probation is completed. His or her responsibilities shall include reports issued every other month to ensure that Dr. Presilla's **medical** practice complies with the terms of the Order **and** that **such** medical practice is **operated** consistently with Board statutes and regulations, **including**, but not limited to, compliance with the standard of care; medication storage; medical recordkeeping systems; and **proper** licensing of **all** employees and **all** equipment. Reports shall be submitted to **the** Medical Director of the Board.

NEW JERSEY STATE BOARD OF MEDICAL EXAMINERS

By: 

Bernard Robins, M.D., F.A.C.P.  
President

I have read and understood the within Order and **agree** to be bound by its terms. Consent is hereby **given** to the Board to enter this Order.



Alejandro Presilla, M.D.

Consented to **as** to form.

---

Jeffrey Brown, **Esq.**  
Counsel for Respondent

### ADDENDUM

**Any licensee who is the subject of an order of the Board suspending, revoking or otherwise conditioning the license, shall provide the following information at the time that the order is signed, if it is entered by consent, or immediately after service of a fully executed order entered after a hearing. The information required here is necessary for the Board to fulfill its reporting obligations:**

**Social Security Number:** \_\_\_\_\_

**List the Name and Address of any and all Health Care Facilities with which you are affiliated:**

---

---

---

---

**List the Names and Address of any and all Health Maintenance Organizations with which you are affiliated:**

---

---

---

---

**Provide the names and addresses of every person with whom you are associated in your professional practice: (You may attach a blank sheet of stationery bearing this information).**

---

---

<sup>1</sup> Pursuant to 45 CFR Subtitle A Section 61.7 and 45 CFR Subtitle A Section 60.8, the Board is required to obtain your Social Security Number and/or federal taxpayer identification number in order to discharge its responsibility to report adverse actions to the National Practitioner Data Bank and the HIP Data Bank.

**DIRECTIVES APPLICABLE TO ANY MEDICAL BOARD LICENSEE  
WHO IS DISCIPLINED OR WHOSE SURRENDER OF LICENSURE  
HAS BEEN ACCEPTED**

**APPROVED BY THE BOARD ON MAY 10, 2000**

All licensees **who are** the subject of a disciplinary order of **the** Board are **required** to provide the information required **on the Addendum to these** Directives. The information provided will be maintained separately and will not be part of **the public document** filed with the **Board**. **Failure** to provide the information required may result in further disciplinary action for failing to cooperate with the Board, **as required by N.J.A.C. 13:45C-1 et seq. Paragraphs 1 through 4 below shall apply when** a license is suspended or revoked or **permanently surrendered**, with or **without** prejudice. **Paragraph 5** applies to licensees who **are** the **subject of an order** which, **while** permitting continued practice, **contains** a probation or monitoring requirement.

**1. Document Return and Agency Notification**

The licensee **shall** promptly **forward to** the Board office at Post Office Box **183**, 140 East front Street, 2nd floor, Trenton, **New Jersey** 08625-0183, the original **license**, current biennial registration **and**, if applicable, the original CDS registration. **In** addition, if the **licensee holds** a Drug Enforcement Agency (**DEA**) registration, **he or she** shall promptly **advise** the DEA of the licensure action. (With respect to suspensions of a finite term, at **the** conclusion of the term, the licensee may contact the Board office for the **return of the** documents previously surrendered to the Board. **In** addition, at the conclusion of the term, the licensee should contact the **DEA** to **advise** of the **resumption** of practice and to ascertain the impact of that change upon his/her DEA registration.)

**2. Practice Cessation**

The licensee shall cease **and desist** from engaging in the practice **of** medicine in this State. This prohibition not only **bans** a licensee from rendering professional **services**, but also from providing an opinion **as to** professional practice or **its** application, or representing him/herself **as** being eligible to practice. (Although the **licensee need not affirmatively advise** patients or others of the revocation, suspension or surrender, **the licensee must** truthfully **disclose** his/her licensure status in response to inquiry.) The disciplined licensee **is also** prohibited from occupying, sharing or **using** office space in which another **licensee** provides health care services. The disciplined licensee may contract for, accept payment from another licensee for or rent at fair market value office premises and/or equipment. In no case may the disciplined licensee authorize, allow or condone **the use of** his/her provider number **by** any health care practice or any other licensee or health care provider. (In situations where the licensee has been **suspended for less** than one **year**, the licensee may **accept** payment from another professional who is using his/her office **during** the period that the licensee **is** suspended, for the payment of **salaries** for office **staff employed** at **the time of the Board** action.)



A licensee **whose** license has been revoked, suspended for one (1) year or more or permanently surrendered must remove signs and take affirmative action to **stop advertisements** by which his/her eligibility to practice is represented. The licensee must also take steps to **remove** his/her name from **professional listings**, telephone **directories**, **professional stationery**, or **billings**. **If the licensee's name is** utilized in a group practice title, it shall be **deleted**. **Prescription pads bearing the licensee's name shall be destroyed.** A **destruction report** form obtained from the Office of Drug Control (973-504-6558) **must be filed**. If no other licensee **is** providing services at the location, all medications must be removed and returned to **the** manufacturer, if **possible, destroyed or** safeguarded. (In situations where a license **has been suspended** for **less** than one year, prescription **pads and** medications **need not be destroyed** but must be secured in a locked place for safekeeping.)

### **3. Practice Income Prohibitions/Divestiture of Equity interest in Professional Service Corporations and Limited Liability Companies**

A licensee shall not charge, receive or share in any fee for **professional services rendered** by him/herself or others while barred from engaging in the professional practice. The licensee may **be compensated** for the reasonable **value** of services lawfully rendered and disbursements incurred on a patient's behalf prior **to** the effective date of the Board action.

A licensee who **is** a shareholder in a professional service corporation organized to engage in the professional practice, whose license is revoked, surrendered or suspended for a term of one (1) year or more shall **be** deemed to be disqualified from the practice within **the** meaning of the Professional Service Corporation Act. (N.J.S.A. 14A:17-11). A disqualified licensee shall divest him/herself of **all** financial interest in the **professional service** corporation **pursuant to N.J.S.A. 14A:17-13(c)**. A licensee **who is** a member of a limited liability company organized pursuant to N.J.S.A. 42:1-44, shall **divest** him/herself of all financial interest. Such divestiture shall occur within 90 days following the the entry of the Order rendering the licensee disqualified to participate in the applicable form of ownership. Upon divestiture, a licensee shall forward to the Board a **copy** of documentation **forwarded** to the Secretary of State, Commercial Reporting Division, demonstrating that the interest has **been** terminated. If the licensee is the sole shareholder in a **professional service** corporation, the corporation must be dissolved within 90 days of the licensee's disqualification.

### **4. Medical Records**

If, as a result of the Board's action, a practice is **closed or transferred to** another location, the licensee shall ensure that during the three (3) month period following the effective date of the disciplinary order, a message will be delivered to patients calling the former office premises, advising where records may be obtained. The message should inform patients **of the** names and telephone **numbers** of the licensee (or his/her attorney) **assuming custody of the** records. The same information shall also be disseminated by means of a notice to be published at least once per month for three (3) months in a newspaper of

general circulation in the geographic vicinity in which the practice **was** conducted. At the end of the **three** month **period**, the **licensee shall file** with the Board the name and **telephone** number **of the** contact **person** who will have access to medical records of former patients. Any **change** in that individual or his/her telephone number shall be promptly reported to the Board. **When** a patient or his/her representative requests **a copy** of his/her medical record or **asks** that record be forwarded to another health care provider, the **licensee shall** promptly provide the record without charge to the patient.

## **5. Probation/Monitoring Conditions**

With respect to any licensee who **is the subject** of any Order imposing **a** probation or monitoring requirement or a stay **of an** active **suspension**, in **whole or** in part, which is conditioned upon compliance with a probation or monitoring requirement, the licensee shall **fully** cooperate with **the Board and its** designated representatives, including the Enforcement Bureau of **the Division of Consumer** Affairs, in ongoing monitoring of the licensee's **status and** practice. Such monitoring **shall** be at the expense of the disciplined practitioner.

(a) Monitoring of practice conditions may include, but is not limited to, inspection **of the** professional premises and equipment, and inspection and copying **of** patient records (confidentiality of patient identity shall **be** protected **by the Board**) **to** verify compliance with the Board **Order and** accepted **standards** of practice.

(b) Monitoring of **status** conditions for **an** impaired practitioner **may** include, **but** is not **limited** to, practitioner cooperation in providing releases permitting unrestricted access to records and other information to the extent **permitted by** law from any treatment facility, other treating practitioner, support group or other **individual/facility** involved in the education, treatment, monitoring or oversight of the practitioner, or maintained **by** a rehabilitation program for impaired practitioners. If bodily **substance** monitoring has been ordered, the practitioner shall fully cooperate **by** responding to a demand for breath, blood, urine or other sample in a timely manner and providing the **designated** sample.



## **NOTICE OF REPORTING PRACTICES OF BOARD REGARDING DISCIPLINARY ACTIONS**

Pursuant to N.J.S.A. 52:14B-3(3), all **orders of the** New Jersey State Board of Medical Examiners **are** available **for** public inspection. Should any **inquiry be** made **concerning** the status of a licensee, the inquirer will **be** informed **of** the existence of the order and a copy will **be provided if** requested. All evidentiary hearings, **proceedings** on motions or **other** applications which are conducted as **public** hearings **and** the record, **including** the transcript and documents **marked** in evidence, are available for public **Inspection**, upon request.

Pursuant to **45 CFR Subtitle A 60.8**, the Board is **obligated to report to the** National Practitioners Data Bank **any action relating to** a physician which is based on reasons relating to professional competence or professional conduct:

- (1) **Which revokes or suspends** (of otherwise restricts) a license,
- (2) Which censures, reprimands or places OR probation,
- (3) Under which a license is surrendered.

Pursuant to 45 CFR Section 61.7, the Board **is obligated to report to** the Healthcare Integrity and Protection (HIP) Data Bank, any formal or official actions, such as revocation **or** suspension of a **license (and the length of any such suspension)**, reprimand, censure or probation or any other **loss of license** or the right to apply for, or renew, a license of the provider, supplier, **or** practitioner, whether by operation of law, **voluntary surrender**, non-renewability, or otherwise, or any other negative action **or** finding by **such** Federal or **State agency** that **is** publicly available information.

Pursuant to N.J.S.A. 45:9-19.13, if the Board refuses to issue, suspends, revokes or otherwise places conditions **on** a license or **permit**, it is obligated to notify each licensed health care facility and health maintenance organization with which a licensee is **affiliated** and **every** other board licensee **in** this state with whom he or she is directly associated in private medical practice.

In accordance with an agreement with the Federation of State Medical Boards of **the** United States, a list of **all** disciplinary orders are provided **to** that organization on a monthly basis.

Within the month following entry of an order, a summary of the order **will appear on** the public agenda for the next **monthly** Board meeting and is **forwarded to** those members of the public requesting a copy. In addition, the same summary **will appear** in the minutes of that Board meeting, which are also made available to those requesting a **copy**.

Within the month following entry of an order, a summary of the order will appear in a Monthly Disciplinary Action Listing which is made available to those members of the public requesting a copy.

**On** a periodic basis the Board disseminates to its licensees a newsletter which includes a brief description of all of the orders entered by the Board.

From time to time, the Press Office of **the** Division of Consumer Affairs may issue releases including the summaries of the content of public orders.

Nothing herein is intended in any way to limit the Board, the Division **or** the Attorney General from disclosing any public document